

Frequently Asked Questions Concerning the Exclusions From Sales and Use Tax for Manufacturing Machinery and Equipment

1. What do the new exclusions cover?

The exclusions are from the state sales, use, lease, and rental tax for machinery and equipment used by eligible manufacturers in plant facilities predominantly and directly in the actual manufacturing for agricultural purposes or in the actual manufacturing of tangible personal property that is for sale to another. The exclusions provided are from the definition of “cost price” for use tax purposes under Revised Statute 47:301(3), “sales price” for sales tax purposes under R.S. 47:301(13), and “gross proceeds” (from lease or rental), “monthly lease or rental price paid” and “monthly lease or rental price contracted or agreed to be paid” as used in R.S. 47:302(B), 321(B), and 331(B) imposing the tax on lease and rental transactions. The legislation authorizes political subdivisions of the state to provide these exclusions from local sales, use, lease, and rental taxes, but does not require that they do so.

Five percent of the price of eligible manufacturing machinery and equipment will be excluded from state sales and use tax effective July 1, 2004, in the first of seven steps toward the complete exclusion of such property from state sales and use tax on July 1, 2010. Act 1 of the 2004 First Extraordinary Session of the Louisiana Legislature authorized these exclusions for manufacturing machinery and equipment.

2. When are the exclusions effective?

The exclusions are effective July 1, 2004. As of that date and for the following 12 months, five percent of the sales price, cost price, and lease and rental price of machinery and equipment that is used predominantly in manufacturing by eligible businesses will be excluded from the taxable base. Thereafter, the percentage of the price of eligible property that is excluded from taxation will increase, as the exclusions are further phased-in.

3. What is the schedule for the phase-in of the exclusions?

The percentage of the taxable price of manufacturing machinery and equipment that is excluded from sales and use taxation is increased in seven steps, as follows:

July 1, 2004	5%
July 1, 2005	19%
July 1, 2006	35%
July 1, 2007	54%
July 1, 2008	68%
July 1, 2009	82%
July 1, 2010	100%

4. What businesses are eligible to claim the exclusions?

Only manufacturing businesses are eligible to claim the exclusions. The term “manufacturer” is defined in the act as a person whose principal activity is manufacturing, and who is assigned by the Louisiana Department of Labor a North American Industry

Classification System (NAICS) code within the agricultural, forestry, fishing, and hunting Sector 11 or the manufacturing Sectors 31-33, as they existed in 2002.

5. Can businesses that have been assigned these NAICS codes claim the exclusions on all of their purchases?

No. Eligible businesses can claim the phased-in exclusions only on purchases, leases, or rentals of “manufacturing machinery and equipment,” (question seven, below, explains this term) but must pay the sales or use tax on all other purchases, leases, and rentals for use or consumption by their businesses.

6. What is manufacturing?

Act 1 of the 2004 First Extraordinary Legislative Session provides that “manufacturing” means putting raw materials through a series of steps that brings about a change in their composition or physical nature in order to make a new and different item of tangible personal property that will be sold to another. The act provides that manufacturing begins at the point at which raw materials reach the first machine or piece of machinery and equipment involved in changing the form of the material and ends at the point at which manufacturing has altered the material to its completed form. Placing materials into containers, packages, or wrapping in which they are sold to the ultimate consumer is part of the manufacturing process.

Act 1 provides that “manufacturing for agricultural purposes,” means the production, processing, and storing of food, fiber, and timber.

The act provides that for purposes of the sales and use tax exclusions, manufacturing does not include repackaging or redistributing; the cooking or preparing of food products by a retailer in the regular course of retail trade; the storage of tangible personal property; the delivery of tangible personal property to or from the plant; the delivery of tangible personal property to or from storage within the plant; and actions such as sorting, packing, or shrink wrapping the final material for ease of transporting and shipping.

7. What is manufacturing machinery and equipment?

Act 1 defines “machinery and equipment” as tangible personal property or other property that is eligible for depreciation for federal income tax purposes and that is used as an integral part in the manufacturing of tangible personal property for sale. “Machinery and equipment” also includes tangible personal property or other property that is eligible for depreciation for federal income tax purposes and that is used as an integral part of the production, processing, and storing of food and fiber or of timber.

8. Please provide examples of eligible manufacturing machinery and equipment.

While it is not possible to provide an exhaustive listing of all processes and associated machinery and equipment that can qualify as manufacturing, specific examples of tangible personal property that the act categorizes as eligible “machinery and equipment” are: computers and software that are an integral part of the machinery and equipment used directly in the manufacturing process; machinery and equipment necessary to control pollution at a plant facility where pollution is produced by the manufacturing operation; and machinery or equipment used to test or measure raw materials, the property undergoing manufacturing, or the finished product, when such test or measurement is a necessary part of the manufacturing process.

9. Please provide examples of types of machinery and equipment that are not eligible for the exclusions.

Act 1 categorizes the following as ineligible for the manufacturing “machinery and equipment” exclusions: a building and its structural components, unless the building or structural component is so closely related to the machinery and equipment that it houses or supports that the building or structural component can be expected to be replaced when the machinery and equipment are replaced; heating, ventilation, and air-conditioning systems, unless their installation is necessary to meet the requirements of the manufacturing process, even though the system may provide incidental comfort to employees or serve, to an insubstantial degree, non-production activities; tangible personal property used to transport raw materials or manufactured goods prior to the beginning of the manufacturing process or after the manufacturing process is complete; and tangible personal property used to store raw materials or manufactured goods prior to the beginning of the manufacturing process or after the manufacturing process is complete.

10. Are repairs to manufacturing machinery and equipment eligible for the exclusions?

Repairs to manufacturing machinery and equipment to keep the property in an ordinarily efficient working order do not qualify for exclusion under R.S. 47:301(3)(i). Because neither the labor nor the materials used in these repairs are depreciable for federal income tax purposes, charges for these items cannot be excluded from tax. The tax is due on these repairs in the total amount charged, including both materials and labor.

Charges for labor and materials utilized during work that is classified as a capital improvement under Internal Revenue Service Regulations may be excluded as follows:

Charges for materials used on and for the labor performed on qualifying manufacturing machinery and equipment that is movable property at the time of the capital improvement are both excluded from tax in the appropriate phase-in percentage.

If the machinery and equipment is immovable at the time of the capital improvement, the labor performed on the machinery and equipment is not subject to sales and use tax. The materials incorporated into qualifying manufacturing machinery and equipment that is immovable property at the time of the capital improvement are eligible for exclusion in the appropriate phase-in percentage.

11. How do I claim the exclusions?

First, file an application with the Department of Revenue for recognition as an eligible manufacturer, using Form R-1070, “Application for Certification as a Manufacturer,” which is available on the department’s web site at [http://www.revenue.louisiana.gov/forms/taxforms/1070\(6_04\)F.PDF](http://www.revenue.louisiana.gov/forms/taxforms/1070(6_04)F.PDF). The department will then issue to each approved applicant an exclusion form that can be presented to vendors or lessors. Vendors or lessors accepting the forms will exclude from the taxable base on their customers’ transactions the excludible portion of the sales, cost lease, or rental price.

12. My business is constructing a manufacturing facility, and contractors will be purchasing equipment that would be eligible for the partial exclusion if my manufacturing business purchased the equipment directly from vendors. Will the appropriate percentage of exclusion be authorized on my contractors’ purchases, leases, or rentals of eligible equipment?

Manufacturing businesses that are authorized by law to claim the partial exclusions on their own purchases, leases, or rentals of eligible manufacturing machinery and equipment can authorize the contractors, as their mandataries (agents), to also claim the sales and use tax exclusions on eligible property. Since the exclusions are available only to manufacturers whose eligibility for exclusion has been approved by the Department of Revenue, and are not available directly to contractors, contractors must be designated as mandataries (agents) of eligible manufacturing businesses in order to claim the exclusions.

The department has published Form No. R-1072 to facilitate manufacturers' designation of contractors as their mandataries (agents) for purposes of making tax-excluded purchases in the manufacturers' names.

13. How is the exclusion claimed and the remaining tax collected, reported, and remitted?

A. For claiming the exclusion when the vendor collects the tax:

Purchasers that have not been issued direct payment numbers must present exclusion Form No. R-1071 to claim the exclusions for the appropriate excluded portion of the transaction. Tax must be paid on the portion of the sale not excluded from tax.

B. Vendor's method of reporting and remitting the tax collected:

Vendors who accept exclusion certificates from eligible purchasers will exclude the appropriate percentages of their sales, lease, or rental taxes from the taxable bases on transactions with their customers. The total sales price of property, including the manufacturing machinery and equipment that is eligible for this phased-in exclusion, is reported on Line 1 of the monthly state sales tax return. Similarly, the total lease and rental price of property, including the lease and rental price of eligible manufacturing machinery and equipment, is reported on Line 3 of the return. Sales, leases, and rentals of eligible manufacturing machinery and equipment are deducted on Line 22 of the return.

C. For claiming the exclusion when the vendor does not collect the tax:

Purchases on which sales tax has not been paid is subject to use tax on the portion of the transaction that has not been excluded from tax. Purchasers must report the total price of property for use or consumption, including the manufacturing machinery and equipment that is eligible for this phased-in exclusion, on Line 2 of the state sales tax return. The excluded portion of the transaction may be deducted on Line 22 of the return.

D. For manufacturers that have been issued Direct Payment Numbers:

Manufacturing businesses that have been issued direct-pay permits, as provided by R.S. 47:303.1, can purchase, lease, or rent tangible personal property for their use or consumption, including the manufacturing machinery and equipment that is eligible for this phased-in exclusion, without the payment of sales or use taxes. The total price of property for use or consumption, including the manufacturing machinery and equipment that is eligible for this phased-in exclusion, is reported on Line 2 of the monthly state sales tax return. Purchases, leases, and rental of eligible manufacturing machinery and equipment are deducted on Line 22 of the return.